REMARKS

In response to the above-identified Office Action, Applicants seek reconsideration in view of the following remarks. In this Response, Applicants do not amend, cancel, or add any new claims. Accordingly, claims 1-9 and 12-27 remain pending in the Application.

I. Objection to the Specification

The Patent Office objects to the specification alleging that the recitation of "third severity level" and "fourth severity level" in claims 13 and 14 were not properly defined in the disclosure. Applicants respectfully traverse the objection.

In at least paragraphs [0054]-[0056] of Applicants' disclosure, Applicants define severity levels. In fact, Applicants disclose: "in some embodiments, there may be thirteen severity levels. In an alternative embodiment, there may be five severity levels. In yet another embodiment, there may be 20 severity levels" (Applicants' paragraph [0055]). Moreover, Tables 1 and 2 in Applicants' disclosure clearly indicate that there are at least 4 severity levels (e.g., severity levels 0-13 in Table 1 and severity levels 0-13 in Table 2). Therefore, Applicants submit that Applicants' disclosure properly defines the recitation of "third severity level" and "fourth severity level" in claims 13 and 14 are properly defined. Accordingly, Applicants respectfully request withdrawal of the objection of the specification.

II. Claims Rejected Under 35 U.S.C. § 103

A. *Sawatari* in view of *Calvignac*

Claims 1-2, 7-9, 15-18, and 21-27 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2002/0004841 filed by Sawatari ("*Sawatari*") in view of U.S. Patent No. 5,557,608 issued to Calvignac et al. ("*Calvignac*"). Applicants respectfully traverse the rejection.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Among other elements, amended claim 1 defines an apparatus comprising a second processor configured to "transmit the different severity level to the first processor, wherein the first processor is further configured to replace the one of the plurality of

admission policies with a different one of the plurality of admission policies based on the different severity level" (emphasis added). Applicants submit that the combination of *Sawatari* and *Calvignac* fails to teach or suggest at least these elements of amended claim 1.

In making the rejection, the Patent Office admits that *Sawatari* fails to teach or suggest "a plurality of call admission policies associated with one of a plurality of severity levels within its network" (Paper No./Mail Date 20081023, page 3). Moreover, in reviewing *Sawatari* Applicants are unable to discern any sections of *Sawatari* teach or suggesting such elements. Therefore, *Sawatari* fails to teach or suggest each and every element of clam 1. The Patent Office relies on the disclosure in *Calvignac* to cure the defects of *Sawatari*; however, Applicants submit that *Calvignac* fails to cure such defects.

The Patent Office cites *Calvignac* as disclosing "a plurality of call admission policies associated with one of a plurality of severity levels within its network col. 1, lines 40-62; col. 3, line 34-col. 4, line 34, Calvignac discusses the use of a preemptive policy which uses high and low priority classes of service where the low priority class is replaced or taken over with high priority class whenever a high priority packet arrives)" (Paper No./Mail Date 20081023, page 3, parenthetical in original). Applicants respectfully disagree with the Patent Office's characterization of the teaching or suggestions of *Calvignac*.

Calvignac discloses a device/system that only operates a single service policy. That is, the single service policy is chosen for the device/system at inception from amongst different service policies, but that once the service policy is selected, no other service policies are utilized. Specifically, *Calvignac* states that a "scheduler implements a policy to forward these packets to the output truck," wherein "depending on the trunk speed, the scheduling policy is either preemptive **or** nonpreemptive" (Col. 3, lines 45-46 and 59-60, respectively). Here, the trunk speed permanently determines the scheduling policy. That is, the scheduling policy is not based on the severity level of the network path, but rather on the trunk speed, which scheduling policy cannot change since the trunk speed does not change. Specifically, *Calvignac* discloses that "a T3 link supporting 2 Kbyte maximum length packets would use a non-preemptive policy" and "a T1 link supporting 2 Kbyte maximum length packets would use a preemptive with resume policy" (*Calvignac*, Col. 4, lines 1-2 and 12-13, respectively). There is no disclosure in *Calvignac* that a T3 link would use any other

type of policy besides a non-preemptive policy and that a T1 link would use any other type of policy besides a preemptive with resume policy, and certainly no disclosure that there would be a change in policy based on the severity level of a network path.

Regarding the Patent Office's characterization that *Calvignac* "discusses the use of a preemptive policy which uses high and low priority classes of service where the low priority class is replaced or taken over with high priority class whenever a high priority packet arrives," Applicants submit that such high and low priority classes together form a portion of a single policy, not a high priority policy and a low priority policy.

Calvignac discloses that in the case of a non-preemptive policy, "the buffer with the lower priority class is served only if the buffer with the highest priority class is empty, and the service of the low priority packets is not interrupted even when a high priority packet arrives before the end of the service" (*Calvignac*, Col. 3, lines 61-65). For a pre-emptive resume policy, "the buffer with the lower priority class is served only if the buffer with the highest priority class is empty, and the service of the low priority packets is interrupted when a high priority packet arrives before the end of the service. The service of the low-priority packet is resumed after the high-priority packet has been served" (Calvignac, Col. 4, lines 4-9). Here, it is clear that the non-preemptive policy and the preemptive with resume policy each use high and low priority classes. In other words, a policy defines how to use the high and low priorities within an ordering scheme, not that the high and low priorities themselves are individual policies. Therefore, *Calvignac* only teaches a device/system that utilizes a single scheduling policy since the device/system will use a non-preemptive policy or a preemptive resume policy, but never both. As such, *Calvignac* fails to cure the defects of *Sawatari*.

The failure of the combination of *Sawatari* and *Calvignac* to teach or suggest each and every element of claim 1 is fatal to the obviousness rejection. Therefore, claim 1 is not obvious over *Sawatari* in view of *Calvignac*. Accordingly, Applicants respectfully request withdrawal of the rejection of independent claim 1.

Claims 2 and 7-8 depend from claim 1 and include all of the elements thereof. Therefore, Applicants submit that claims 2 and 7-8 are not obvious over *Sawatari* in view of *Calvignac* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2 and 7-8.

Regarding the rejection of independent claims 9, 17, and 21, Applicants submit that claims 9, 17, and 21 recite the elements of "replacing the first call admission policy with a second call admission policy if the first severity level and the second severity level are different severity levels," "replace the first call admission policy with a second call admission policy if the previous severity level and the current severity level are different severity levels," and "replacing the first call admission policy with a second call admission policy if the first severity level and the second severity level are different severity levels," respectively, similar to the elements of a processor "configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claim 1. Therefore, Applicants submit that claims 9, 17, and 21 are not obvious over *Sawatari* in view of *Calvignac* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 9, 17, and 21.

Claims 15-16 and 27 depend from claim 9, claim 18 depends from claim 17, and claims 22-26 depend from claim 21 and include all of the elements of their respective independent claims. Therefore, Applicants submit that claims 15-16, 18, and 22-27 are not obvious over *Sawatari* in view of *Calvignac* at least for the same reasons as claims 9, 17, and 21, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 15-16, 18, and 22-27.

B. *Sawatari* in view of *Calvignac* and *Khan*

Claims 3-4, 12, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Sawatari* in view of *Calvignac* and U.S. Patent No. 6,400,954 issued to Khan et al. ("*Khan*"). Applicants respectfully traverse the rejection.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Claims 3-4, 12, and 19-20 depend from claims 1, 9, and 17, respectively, and include all of the elements thereof. In making the rejection, the Patent Office characterizes *Sawatari* and *Calvignac* similar to the characterization discussed above with respect to the rejection of claims 1, 9, and 17. Applicants have discussed above the failure of *Sawatari* and *Calvignac* to teach or suggest at least the elements of a processor "configured to replace the one of

the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claim 1 and similarly recited in claims 9 and 17, and submit that such discussion is equally applicable to claims 3-4, 12, and 19-20 via their respective dependencies from claims 1, 9, and 17. Therefore, *Sawatari* and *Calvignac* fail to teach or suggest each and every element of claims 3-4, 12, and 19-20. The Patent Office relies on the disclosure in *Khan* to cure the defects of *Sawatari* and *Calvignac*; however, Applicants submit that *Khan* fails to cure such defects.

The Patent Office characterizes *Khan* as disclosing "different service classes in a network with different threshold levels" (Paper No./Mail Date 20081023, page 6, citations omitted). The Patent Office does not characterize *Khan* as disclosing the element of a processor "configured to replace the one of the plurality of admission policies with a different one of the plurality of admission policies based on the different severity level," as recited in claims 3-4 (via claim 1) and similarly recited in claim 12 (via claim 9) and claims 19-20 (via claim 17). Moreover, in reviewing *Khan*, Applicants are unable to discern any sections of *Khan* disclosing such elements. Therefore, *Khan* fails to cure the defects of *Sawatari* and *Calvignac*.

The failure of the combination of *Sawatari*, *Calvignac*, and *Khan* to teach or suggest each and every element of claims 3-4, 12, and 19-20 is fatal to the obviousness rejection. Therefore, claims 3-4, 12, and 19-20 are not obvious over *Sawatari* in view of *Calvignac* and *Khan*. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3-4, 12, and 19-20.

IV. Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that claims 5-6 and 13-14 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims. However, in view of the discussion above, Applicants believe that claims 5-6 and 13-14 are in condition for allowance as they currently stand.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Patent Office believes that a telephone conference would be useful in moving the application forward to allowance, the Patent Office is encouraged to contact the undersigned at (480) 385-5060 or jgraff@ifllaw.com.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
INGRASSIA FISHER & LORENZ, P.C.

Dated: December 23, 2008

/JASON R. GRAFF/
Jason R. Graff
Reg. No. 54,134
(480) 385-5060